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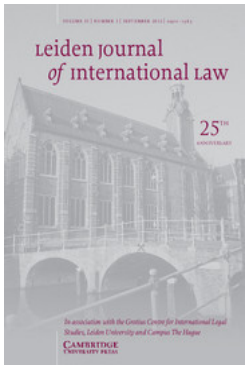

Towards More Effective Supervision by International Organizations – Essays in Honour of Henry G. Schermers, Volume I, by N. Blokker & S. Muller (Eds.). Martinus Nijhoff Publishers, Dordrecht, 1994, ISBN 0-7923-3159-1, xvii and 349 pp., US$ 169.50/Dfl. 265.-.

Nico J. Schrijver

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BOOK REVIEWS

United Nations: Law, Policies and Practice - New, Revised English Edition - by Rüdiger Wolfrum (Ed.), Verlag C.H. Beck/Martinus Nijhoff Publishers, München/Dordrecht/London/Boston, 1995, ISBN: 0-7923-2717-9, *xxiii* + 1533 pp., US$ 304.-/UK£ 195.-/Dfl. 475.-.

This is the first English edition of the German *Handbuch Vereinte Nationen*, which was first published in 1977. In 1991, a totally revised second German edition appeared. The tremendous amount of work that went into this first English edition - in comparison to the two previous German editions - is readily apparent. Of course, almost 20 years have passed since the appearance of the first German edition, which has considerably augmented the material concerning the Organization of the United Nations. But this is certainly not the only reason that this new and updated English edition is so welcome. The work, now in two volumes, contains 162 keywords and, thus, compiles the knowledge of approximately 100 contributors to this edition. The great expertise of these authors, as well as the splendid editing of the articles by the Editor in Chief and the Managing Editor, Christiane Phillipp, make all the detailed information very valuable. Most of the work for this edition was undertaken at the Kiel Institute of International Law, which was directed by Rüdiger Wolfrum until 1993. Obviously, it is impossible even to pay tribute to most of the articles. Thus, the reviewer must subjectively select some of the contributions in order to exemplify the strength of this book.

The first article to be reviewed is that on apartheid by Jost Delbrück (Vol. 1, pp. 27-38). Here, with much elaboration, the author introduces the concept of apartheid and gives a brief survey of the historical development of this policy of racial segregation, which was pursued by the Republic of South Africa until recently. Factual developments are presented together with international legal developments in the different periods. The most important development was certainly the adoption of the International Convention on the Suppression and Punishment of the Crime of Apartheid[1] by General Assembly Resolution 368 (XXVIII) of 30 November 1973. As to the role of the United Nations in fighting apartheid, the judg-

1. For the text of the Convention, *see* 13 ILM 50 (1979).

ment of the author is quite sceptic: on the one hand, most of the sanctions against South Africa were not as effective as was intended at the moment of their adoption; on the other hand, the pressure of the International Community, channelled through the United Nations, certainly did contribute to the end of apartheid in South Africa.

The article on arms control, by Jost Delbrück (Vol. I, pp. 39-47), and the article on the arms trade, by Thomas Röser (Vol. I, pp. 48-54), shed light on a different activity of the United Nations. Up to the present, one must conclude that in this specific area, the UN has not been very successful, primarily because states, and principally the superpowers, have not allowed the UN to be successful. It can only be hoped that the role of the United Nations with regard to arms transfers can be strengthened and that the UN will eventually be successful in adopting an international treaty on the elimination of nuclear weapons.

The article on collective security by Karl Doehring (Vol. I, pp. 110-115) very eloquently describes the functioning of what is still the backbone of the whole United Nations system. The author takes a relatively restrictive approach to prior state practice with regard to the system of collective security. In his opinion, it was the Korean war that brought the system of collective security into operation. Interestingly, in Doehring's view, military action in response to the Iraqi aggression against Kuwait is not an example of a functioning system of collective security.

Thomas Fitschen is concerned with the concept of the common heritage of mankind (Vol. I, pp. 149-160). He very accurately describes the areas, mostly outside national jurisdiction, where the conception of a common heritage of mankind is applied. Fitschen correctly stresses that this conception is more than simply soft law but that it has only in some aspects acquired the quality of customary international law. That this is the case is mostly due to the fact that the decisive element of the common heritage of mankind concept, *i.e.*, the economic element, was, until quite recently, still very controversial. The most recent examples - in particular in international maritime law and international space law, with the adoption of the Interim Agreement to the Law of the Sea Convention and the declaration on "space benefits" - clearly indicate that any too overcontrolled approach to the economic element is not commonly acceptable. Rather, the compromise formula between developed as well as developing states must involve market-oriented solutions with certain promotional obligations of the developed states to the benefit of, at a minimum, the least developed

countries.

Also very valuable is the extensive section describing the different conflicts in which the United Nations played a role (Vol. I, pp. 176-349). These include conflicts in Afghanistan, Iran/Iraq, Iraq/Kuwait, Korea, the Middle East, Rhodesia/Zimbabwe, South Africa, and the former Yugoslavia. Each of these case studies describes the reason for the conflict and stresses, in particular, the role of the United Nations. This clearly elucidates the successes as well as the shortcomings of the United Nations.

The next section (Vol. I, pp. 366-406) describes the activities of the UN under the keywords of decolonization, developing countries, debt crisis and international economic order, involving the activities of the United Nations with regard to the North/South-conflict. Philip Kunig writes on the role of the United Nations with regard to decolonization (pp. 390-397). He correctly states that it was not the UN trusteeship system that helped to overcome colonization, but rather that Article 55 of the UN Charter, with its reference to self-determination, provided the main impetus to the movement that started in the 1960s. Joachim Betz writes on the difficult question of whether a country qualifies as a developing country (pp. 398-406).

Michael Bothe's article on the debt crisis (Vol. I, pp. 366-379) shows the different instruments applied by the United Nations and its special agencies to mitigate conflicts that have arisen due to the debts of some developing countries. Ursula Heinz' article on the international economic order (Vol. II, pp. 749-759) gives a concise overview of the different factors of the international economic order, with particular emphasis on the striving of developing countries for a 'new international economic order'. Heinz stresses the fact that the most radical arguments of the developing countries for a fundamental change in the international economic order were not accepted. The above-mentioned adoption of the Interim Agreements for the new Law of the Sea Convention is a good example of that view. Another example would certainly be the recently terminated Uruguay Round of the GATT, which led to the establishment of the World Trade Organization (WTO). Wolfgang Benedek, an expert in this field thanks to his legal dissertation on the GATT , describes not only the old GATT, but also the new structure as a result of the Uruguay Round (Vol. I, pp. 532 547).

The concise articles on the different organs of the United Nations - Secretariat and Secretary-General (Vol. II, pp. 1129-1161), Security Council

(Vol. II, pp. 1202-1208), and the International Court of Justice (Vol. I, pp. 673-685), as well as the specialized agencies - are worth mentioning. In each case, the portrait is given in a very concise way. Furthermore, some areas of international law that have been developed mainly within the UN framework - like the protection of human rights, the law of outer space, and environmental protection - are specifically described in the UN Handbook.

Finally, Karl-Matthias Meessen, in his article on sovereignty (Vol. II, pp. 1193-1201), demonstrates that institutionalized cooperation, primarily through the organization of the United Nations, has contributed considerably to a new form of sovereignty that has lost much of its absolute character. In this context, Klaus Dicke's article on the reform of the United Nations (Vol. II, pp. 1012-1024) is most valuable, as it gives an insight into the necessity of adapting the world organization to today's needs.

One cannot but praise this fundamental book on the United Nations, which, in a very illuminating way, informs about today's actual implementation of the idea of international organization, as did the other important German contribution on the law of the United Nations, the Commentary on the UN Charter, edited by Bruno Simma, *et al.*[2] The very fact that both fundamental works appear in a period in which the UN, after the end of the Cold War, has a significant chance not only to improve its reputation, but also to contribute to the maintenance of international peace and security, as was originally envisaged by the founders of the Charter, shows that the idea of international organization is not dead. Quite to the contrary, despite all financial constraints, it is more alive and needed than ever, but can only survive if the necessary reforms are taken and, most importantly, if states more wholeheartedly allow international organizations in general and the UN Organization(s) in particular to operate efficiently for the maintenance of international peace in its broadest meaning.

Rüdiger Wolfrum's work is certainly a valuable contribution to a more concise understanding of the operation of the UN machinery, which makes this author hope that this book will find wide acceptance within the international community.

*Dr. Stephan Hobe, LL.M.**

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2. B. Simma (Ed.), et al., UN Charter Commentary (1994).

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The United Nations at Age Fifty by Ch. Tomuschat (Ed.), Kluwer Law International, Den Haag/London/Boston, 1995, ISBN 90-411-0145-4, 327 p., £ 84. /Dfl 270. .

This book is one among many publications that have appeared to commemorate the fiftieth anniversary of the United Nations.[1] It binds together the views of 17 authors from all over the world and from various backgrounds, including academic, legal, and political. The book is underpinned by ambitious objectives. First, it aims to examine the question 'whether and to what extent it has been possible to promote the community values acknowledged by the UN Charter through methods and mechanisms in accordance with the rule of law'. Second, the editor writes that the work aims both to take stock and to devise strategies (p. ix). On the whole, it reasonably achieves both.

The book is divided into two main parts: the first deals with issues of international peace and security, while the second addresses other fields of UN activity. These other fields include the environment, the international economic order, development, human rights, international law in general, and the law of the sea.

Although the contributions are strictly individual opinions, nationals from each of the five permanent members of the Security Council have submitted articles under the first heading (whereby Professor Thomas Franck is considered to be an American). Other contributors come from Germany, Italy, India, Japan, Austria, Egypt, Kenya, and Morocco. The average length of the contributions is short: rarely longer than 15-20 pages.

In Part I, issues that are the subject of intensive debate by both academics and politicians currently within the UN are highlighted and commented upon from various angles. What mission should the UN set for itself for the next 50 years? Kühne identifies three fundamental security threats: fragmentation of states, proliferation of weapons, and the environment.[2] Is there need for a fundamental reform of the Charter? Greenwood

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1. *See, e.g.*, R. Falk, *Explaining the United Nations Unhappy 50th Anniversary: Toward Reclaiming the Next Half-Century*, 35 Indian Journal of International Law, 169-179 (1995); R. Higgins, *The United Nations Role in Maintaining International Peace: The Lessons from the First Fifty Years*, 16 New York Law School Journal of International and Comparative Law, 135-149 (1996); J.C. Sweeney, *The United Nations. Reflections on Fifty Years*, 18 Fordham International Law Journal 1-5 (1993-1994); I.J. Gassama. *World Order in the Post-Cold War Area: The Relevance and Role of the United Nations after Fifty Years*, 20 Brooklyn Journal of International Law (1994).

2. W. Kuhne, *The United Nations, Fragmenting States, and the Need for Enlarged Peacekeeping*

concludes that 'a root and branch' constitutional reform is not needed.[3] Can the UN manage many of today's conflicts? Pellet, who is rather cynical, warns against not taking due account of the reality of the balance of power - a fundamentally different one than we had in 1945.[4] It is somewhat confusing that the first contribution of Part II, by Adede, does not directly deal with the UN, but more with the development of law-making for the protection of the environment.[5] The contributions on the international economic order, development, and human rights do have a direct link to the UN organization itself.

Although it must be said at the outset that the book does give insight into the most significant issues with which the UN has been confronted, criticism is warranted on two points. First, the quality of the contributions varies strongly. Some contributors maintain a rather descriptive level and rarely undertake any deep analysis (Petrovsky p. 135), whilst others do (Kühne p. 91). In Part I, quite a few authors go through the trouble of spelling out of the historical development of the UN from the League of Nations to the Dumbarton Oaks proposals, ending with the actual signing of the Charter. This creates an annoying overlap. A second criticism, which weighs heavily for a book covering such a wide variety of topics, is the omission of an index.

Nonetheless, and as matter of conclusion, students with an interest in topical issues with which the UN is confronted today will find this an interesting book to be able to access, despite the fact that the general tone of the contributions is, not surprisingly, rather pessimistic. On the other hand, as Seidl-Hohenveldern ends his contribution, "it is always permitted to hope."[6]

Sam Muller[*]

91.

3. C. Greenwood, *A United Kingdom View* 73.
4. A. Pellet, *The Road to Hell is Paved with Good Intentions: The United Nationals as a Guarantor of International Peace and Security - A French Perspective* 113-114. The author's note on, he describes himself as "a French." *Id.*
5. A. Adede, *International Protection of the Environment* 197.
6. I. Seidl-Hohenveldern, *The International Economic Order* 215 at 233.

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Fifty Years of the International Court of Justice - Essays in Honour of Sir Robert Jennings by V. Lowe & M. Fitzmaurice (Eds.). Grotius Publications, Cambridge University Press, Cambridge, 1996, ISBN 0-521-55093-9, *xxxix* and 640 pp., UK£ 75.-/Dfl. 240.-.

This handsome and solid book, which in the words of Laurie Anderson is "thick enough to stun an ox,"[1] not only marks the fiftieth anniversary of the International Court of Justice, but was also prepared to honour Sir Robert Jennings, former judge and President of the Court. Its scope is broad, containing 33 chapters arranged under five headings: the Court; the sources and evidences of international law; the substance of international law; procedural aspects of the Court's work; and the Court and the United Nations. It thus contains a clear thematic structure that, although focusing on the Court itself, is nevertheless wide-ranging enough to have stunned this reviewer by the wealth of knowledge it contains.

This book is a compendium of the Court's practice covering the principal areas and themes of its activity over the past 50 years. Even if *Fifty Years of the International Court of Justice* is seen as nothing more than a handy reference tool that expounds the Court's jurisprudence, it succeeds admirably. However, it goes further. This book contains the considered reflection and critical assessment of the Court's activity by recognized experts in the fields they address. The substance of this volume is pregnant with insight and evaluations provided by international judges, academics, and practitioners. It should prove to be - and deserves to be - a book that will not simply be read, but re-read as a standard doctrinal source examining the work of the Court.

In a relatively brief review of a multi-authored work it is invidious, but inevitable, that some contributions will be singled out for mention while others are passed over in silence. This should not be taken to indicate that not all the essays are worthy of mention. They all are; specific mention simply rests on the interests and idiosyncrasies of the reviewer. Some characteristics, however, appear common throughout. The articles demonstrate a clear focus on primary rather than secondary sources, whether these are archival[2] or the Court's own judgments, advisory opinions, and records of

1. L. Anderson, Let X=X from *Big Science* (Warner Bros., 1982). Bearing in mind the apocryphal story that an English judge once allegedly posed the judicial question "Who are the Beatles?", it perhaps should be explained that Laurie Anderson is an *avant garde* New York performance artist.

2. Principally employed in G. Marston, The London Committee and the Statute of the Inter

the pleadings presented to it. This is to be welcomed: discussion and analysis thus bears directly on the Court's activity rather than comment on others' comments. Internal evidence[3] indicates that the articles were submitted in late 1994. This means that the authors were unable to take account of some recent and important developments, such as the submission by the General Assembly of an advisory opinion request on the legality of the threat or use of nuclear weapons[4] or the Court's delivery of its judgment in the *East Timor* case.[5] As the jurisprudence of any court presents a moving target to commentators, the process of publication makes a time-lag in analysis inescapable. Readers must factor in these developments for themselves - for instance the implications of the Nuclear Weapons advisory opinion requested by the General Assembly[6] - when consulting such admirable contributions as Malgosia Fitzmaurice's on the Court's approach to environmental law,[7] and Dr. Rosenne's discussion of the President's casting vote.[8] This does not, and should not, detract from the value of individual contributions or the book as a whole. The lasting impression gained is that the various authors have each given their best, and many are characteristic examples of the author's intellectual preoccupations. It is as if they had distilled the essence of their work in order to honour Sir Robert. Obvious examples of this tendency include Geoffrey Marston's archival work,[9] Prosper Weil's examination of equity,[10] Barbara Kwiatkowska's lucid analysis of maritime boundary delimitation,[11]

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national Court of Justice at 40, which amasses and analyses documents drawn from the United Kingdom Public Records Office.

3. *See, e.g.*, J.G. Collier, *The International Court of Justice and the Peaceful Settlement of Disputes*, 364 at 371 n.12; E.Lauterpacht, *"Partial" Judgments and the Inherent Jurisdiction of the International Court of Justice*, 465 at 483 *et seq.*, which is a postscript to take account of the second judgment in the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar *v.* Bahrain), Judgment of 15 February 1995, 1995 ICJ Rep. 6.
4. This was contained in UN Doc. GA/RES/49/75K (of 15 December 1994): the resultant advisory opinion was delivered by the Court on 8 July 1996.
5. East Timor case (Portugal *v.* Australia), 1995 ICJ Rep. 90, delivered on 30 June 1995; Professor Cassese was able to allude briefly to this judgment in a note he appended to *The International Court of Justice and the Right of Peoples to Self-determination*, 351 at 363 n. 26.
6. Delivered 8 July 1996; when this review was written, the opinion had not yet been published in the Court's series of Official Reports.
7. M. Fitzmaurice, *Environmental Protection and the International Court of Justice* 293.
8. S. Rosenne, *The President of the International Court of Justice* 406, at 410-411.
9. *See* note 2, *supra*.
10. P. Weil, *L'Equité dans la jurisprudence de la Cour Internationale de Justice* 121.
11. B. Kwiatkowska, *Equitable Maritime Boundary Delimitation* 264.

Judge Stephen Schwebel's overview of human rights and the treatment of aliens,[12] and Philip Allott's stimulating theoretical essay.[13]

Judge Shahabuddeen contributes an elegantly written, incisive, and typically learned analysis of the use of municipal principles and analogies in international law, which gives due regard to Chaïm Perelman, a theorist who has been unduly neglected by those writing in English.[14] This example serves to illustrate a wider and pleasing characteristic of the book as a whole: not only does it examine the obvious topics - for instance, the relationship between the Court and the UN political organs,[15] the Court's approach to treaties,[16] and its advisory competence[17] - but it takes time to consider issues that have attracted less attention from publicists. Three outstanding examples call for special mention: Sir Ian Sinclair's concise and pithy *Estoppel and Acquiescence* (pp. 104-120); Harry Post's topical *Adjudication as a Mode of Acquisition of Territory?* (pp. 237-263); and Shabtai Rosenne's consideration of the role of the President.[18] This last is to be welcomed in particular by scholars of the Court, because it adds to the negligible body of work that examines the institutional position of judges and complements Torres Bernárdez' article on the resignation of judges in Dr Rosenne's own Festschrift.[19]

The one surprising omission from this volume is that there is no extended analysis of the contemporary debate on the Court's powers of judicial review. Although its powers of review over awards of UN administrative tribunals is squarely addressed,[20] judicial review of General Assembly or Security Council action is only considered in passing by Professors Skubiszewski and Bowett;[21] in particular, the latter's brief comments are

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12. Judge S. Schwebel, *The Treatment of Human Rights and of Aliens in the International Court of Justice* 327.
13. Ph. Allott, *The International Court and the Voice of Justice* 17.
14. *See* M. Shahabuddeen, *Municipal Law Reasoning in International Law* 90, at 100-101.
15. *See* J. Crawford, *The General Assembly, the International Court and Self-determination* 585; K. Skubiszewski, *The International Court of Justice and the Security Council* 606.
16. E.W. Vierdag, *The International Court of Justice and the Law of Treaties* 145.
17. R. Higgins, *A Comment on the Current Health of Advisory Opinions* 567.
18. *See* note 8, *supra*.
19. S. Torres Bernárdez, *Resignations at the World Court*, *in* Y. Dinstein (Ed.), International Law at a Time of Perplexity: Essays in Honour of Shabtai Rosenne 953 (1989).
20. See C.F. Amerasinghe, *Cases of the International Court of Justice Relating to Employment in International Organizations* 193. *See also* H.W.A. Thirlway, *Procedural Law and the International Court of Justice* 389, at 400 *et seq.*
21. Skubiszewski, *supra* note 15, at 623 *et seq.*; D.W. Bowett, *The Court's Role in Relation to International Organizations* 181, at 190 *et seq.*

pregnant and thoughtful.

In sum, this is an admirable and useful volume, which deserves to become a classic collection of essays in the canons of international law. In reading it, I was struck by the fact that a number of authors made frequent reference to the opinions of Judge Shahabuddeen as well as to those of Sir Robert. It is a cause for sadness - and a loss to the judicial exposition of international law - that in the recent triennial elections Judge Shahabuddeen was not re-elected to the Court. Still, this should not colour the issue in hand - *Fifty Years of the International Court of Justice* is a fitting tribute to the achievement of Sir Robert Jennings, an intellectual box of chocolates for his eightieth birthday, with the advantage that, unlike chocolates, these essays each can and should be consumed more than once. Only slow digestion can release their full virtue.

*Iain Scobbie**

Towards More Effective Supervision by International Organizations - Essays in Honour of Henry G. Schermers, Volume I, by N. Blokker & S. Muller (Eds.). Martinus Nijhoff Publishers, Dordrecht, 1994, ISBN 0-7923-3159-1, xvii and 349 pp., US$ 169.50/Dfl. 265.-.

After 1945 the number of intergovernmental organizations grew rapidly, as did their functions and powers, reflecting increasing levels of global interdependence and international cooperation among states. A key function of international organizations is supervision of compliance with the law of international organizations by states, as well as by the organizations themselves. This question is closely related to discussions on the effectiveness of international organizations and to assessments of the extent to which these organizations can make inroads into states' domestic jurisdiction. It is often argued that international organizations, such as the United Nations or the International Labour Organization (ILO), may have been successful in the setting of standards, but have failed in ensuring their realization.

The 15 essays in this book illustrate the growth of supervisory mechanisms in the context of international organizations, ranging from merely discussing alleged non-compliance, through reporting and inspections, to

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imposing sanctions and binding states and international organizations to the results of international dispute-settlement procedures. This book is the first volume in a series of three to honour Professor Henry G. Schermers on the occasion of his sixty-fifth birthday.

The first essay is by Judge Bedjaoui, a prolific author on international organization, who assesses problems undermining the efficacy of international organizations as well as concomitant new issues in the post-Cold War period. It is an inspiring and charming essay. Yet, this is not to say that it does not give rise to questions. For example, how should one interpret the ICJ's refusal to review the legal validity of Security Council acts in the *Lockerbie* case,[1] in the light of Bedjaoui's plea to make room for a verification of the legality of UN decisions? Bedjaoui makes only indirect references to this case on pages 25-26 (if, indeed, '1982' should read '1992' at p. 26). On a point of detail, when Bedjaoui writes about 'The Third World countries' as the "[e]ternal victims of both growth and recession in the industrialized countries" (p. 14), one recognizes the style of the former New International Economic Order ambassador from Algeria, whose very relevant opinions of the 1970s may not be automatically suitable to the reality of the 1990s, with a number of developing countries - especially in Asia - being frontrunners in economic growth and industrialization.

There are two other contributions on UN affairs. In an admirably clear and concise essay, Zemanek discusses the dilemmas of peace keeping and peace making, with a collective security case study on Iraq and peace-keeping case studies on Cambodia, Somalia, and the former Yugoslavia (pp. 29-47). He views the new forms of intra-state conflicts and the lack of proper resources for the UN as major new challenges to the organization's traditional peace-keeping tasks. Zemanek remains somewhat brief and vague on the issue of 'peacemaking', which features in the title of the essay. De Waart poses some alternative ideas in pursuit of a more democratic UN (pp. 49-64). He criticises the current UN as a "big brothers' small club," which fails to apply 'good governance' in its own house. De Waart appears to overemphasize the role of Article 106 of the UN Charter on transitional security arrangements as the legal basis of their making common cause with each other (p. 57-58). Nonetheless, his proposals on how to transform the

1. Case concerning Questions of Interpretation and Application of the 1971 Montreal Convention Arising From the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya *v.* United States of America), Order, 1992 ICJ Rep. 14. *See* the interesting dissenting opinion of Judge Bedjaoui, at 143-159.

UN into a truly peoples' centre and on the need to establish an efficient and democratic Executive Board within the UN are thought provoking.

Sohn, one of the most renowned specialists on international dispute settlement, addresses the use of consultations for monitoring rule compliance (pp. 65-82). His long section on the use of consultations during the inter-war period (League of Nations, Kellogg-Briand Pact, and its follow-up) is particularly interesting. Criticizing the formulation of CSCE dispute settlement procedures, he concludes with recommendations for a four-paragraph draft agreement on consultations as one relevant method of compliance monitoring and international dispute settlement. In a similar vein, Suy describes the notable evolution of CSCE supervisory mechanisms from merely conference discussions, through fact-finding and rapporteur missions, to conflict prevention and peaceful settlement of disputes (pp. 83-92). Suy welcomes the enhanced role of the public and NGOs. From the contribution by Bos (pp. 205-215) on the Central Commission for Navigation on the Rhine,[2] one can learn that a role for individuals in rule monitoring has deep roots in Western Europe, with the individual right of complaint dating back to the 1815 Act of Mannheim.[3] Bos also discusses the particularities of this complaint procedure, which is not a judicial procedure but bears some resemblance to the role of the Ombudsman at the national level, and international judicial proceedings insofar as complaints concern the compatibility of national regulations with the provisions of the Act. Judge Cassese (pp. 115-125) discusses a much more recent European supervisory mechanism, namely the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.[4] Starting its operations in 1989, the Committee energetically embarked on exercising its right of investigation and prevention (e.g., of police stations, prisons, psychiatric institutions, and the like) in a number of European countries. Judge Ranjeva (pp. 93-98) provides interesting information and a critical look at recent efforts to establish a Pan-African Mechanism for the Prevention and Settlement of Conflict.[5] Regrettably, this war-torn conti-

2. *Rheinschiffahrtsakte, Zwischen Baden, Bayern, Frankreich, Hessen, Nassau, Niederland und Preussen*, Rheinurkunden I, No. 80 at 212, (1831).
3. Wiener Schlussakte, *Articles Concernant la Navigation du Rhin*, Rheinurkunden 1815, No. 41, at 42.
4. The European Convention for the Prevention of Torture, 1987, Council of Europe Doc. H(87), at 4.
5. Organization of African Unity (OAU), Document CM/1710(LVI), (1992).

nent seems to be far from achieving such a system.

Several contributions are concerned with the work of specialized agencies. Valticos once more highlights the main characteristics of the ILO methods of supervision: reporting by governments and submission of complaints by states, NGOs and (groups of) individuals (pp. 99-113). Both systems have been considerably refined over the years, even allowing supervision (on freedom of association) in the absence of ratification. Therefore, the ILO system is still apt to serve as an inspiration and a model for enhancing and improving supervision. Yet, at the same time Valticos warns that action is required to set priorities and streamline the ILO procedures. Gold discusses the use of penalties in the International Monetary Fund (IMF), e.g., declaring a member ineligible to use the IMF's general resources and - as a last resort - compulsory withdrawal (pp. 127-147). For a considerable period, the IMF has been reluctant to apply such measures. Yet, since the 1980s the IMF has started to make more intensive use of both 'carrots' and 'sticks'. In response to the severe deficits in balances of payments and the alarming international indebtedness, it introduced new penalties in the IMF Articles of Agreement in the Third Amendment, which took effect in 1992.[6] The new penalties include the suspension of a member's voting rights and denial of the right to participate in the appointment or election of executive officers of the Fund. According to Gold, these new penalties might be intended to avoid compulsory withdrawal, since this would conflict with the IMF's aim of universal membership.

Jackson discusses the legal nature and the international and national law effects of a report by a GATT dispute settlement panel (pp. 149-164). He argues that disputants have an obligation to obey in the case concerned, but the report cannot be said to constitute a precedent. Yet, reports can be instrumental in generating 'practice' and uniform interpretation of the GATT.[7] Meanwhile, new and unified dispute settlement procedures have been agreed to under the new WTO Agreement.[8] Early practice shows frequent resort to the new procedures and a willingness of the WTO members, including the United States, to bind themselves to the result of these procedures. Petersmann thoroughly assesses the interrelationship between

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6. Resolution No. 45-3, Third Amendment of the Articles of Board of Governors of the IMF, 29 April 1990.
7. General Agreement on Tariffs and Trade (GATT), 55 UNTS 194 (1948).
8. The Marrakesh Agreement Establishing the World Trade Organization, The Results of the Uruguay Round of Multilateral Trade Negotiations, 33 ILM 112 (1994).

international and European trade and environmental law (pp. 165-205). He concludes that there is considerable similarity between the trade and environmental rules of GATT and the EC.[9] Hence, GATT and EC dispute-settlement proceedings may raise similar problems of legal interpretation. In his view, it would be useful for GATT dispute-settlement procedures to take into account the pertinent EC Court cases and their reasoning. For both legal orders he recommends enhanced supervision of their rights by citizens and their organizations.

Supervision can also relate to compliance by the organization itself with its own laws and regulations; one example is international administrative tribunals. Pescatore (pp. 217-237) presents a detailed survey of the functioning of the two main tribunals: the UN Administrative Tribunal (UNAT)[10] and the ILO Administrative Tribunal (ILOAT).[11] Whereas he praises ILOAT for its independence and professionalism, he is extremely critical of UNAT, labelling its case law "the saddest chapter in the history of international administrative jurisprudence" (p. 229). Particularly, the selection of judges and the substance of the law are main issues of concern. He also provides a negative account of the contribution by the International Court of Justice, which functions more or less as a court of appeal for both tribunals. In Pescatore's view, the Court's opinions rendered so far have remained "quite useless pieces of legal fiction" (p. 231), and hence its contribution to the development of international administrative law is of "almost total irrelevance" (p. 237). Taking quite a different perspective, Amerasinghe is of the view that the legislative acts of international organizations, including the power of the organizations to amend employment rules, are aptly controlled by the administrative tribunals, including UNAT (pp. 239-254). His study addresses the work of the World Bank Administrative Tribunal as well.

Seidl-Hohenveldern studies the peculiar case of the International Tin Council,[12] where all internal and external supervisory mechanisms failed dramatically and resulted in bankruptcy of the organization (pp. 255-274). Inefficiency of internal controls resulted from conflicts of interest among

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9. *See* table on p. 168.
10. UNAT, instituted by the United Nations in 1949, UN Doc. A/1127 (1949).
11. ILOAT, created by the League of Nations in 1927. *See* P. Siraud, *Le tribunal Administratif de la Societé des Nations*, thesis (1942).
12. ITC established by the Sixth International Tin Agreement of 1982. Ended on 24 October 1985.

member states and absence of control over the reckless buying policy of the buffer stock manager. External control by domestic courts in the UK failed as a result of the organization's immunity from domestic jurisdiction. Seidl-Hohenveldern advocates such external control by lifting the veil of immunities for those organizations, which fulfil their function mainly by commercial transactions. This would be in the interest of both their creditworthiness and the proper fulfilment of their functions.

In a final contribution, Blokker and Muller, the editors of the book, conclude with observations on the state of affairs with respect to supervision by international organizations (pp. 275-311). They distinguish between two kinds of supervision: while external supervision relates to supervision of state behaviour by an international body, internal supervision relates to supervision of the activities of international organizations themselves. One could argue that this distinction between internal and external becomes somewhat blurred where international organs[13] external to the one under review carry out the supervisory task. As regards methods of external supervision, the authors conclude that member states' compliance is increasingly supervised from 'above' by the international organizations and from 'below' via the rights of individuals to complain (p. 289). Methods of internal supervision include supervision by administrative tribunals of compliance with staff rules, financial control, and so-called constitutional control, if at all possible. On the whole, the editors conclude that the prospects for more effective supervision seem favourable. Determining factors appear to be the degree of interdependence and concomitant willingness of states to cooperate and accept reductions of sovereignty. This is more likely to occur in specific fields of international cooperation rather than as a result of abstract decision making at an overarching level. Concrete case studies like the ones included in this book are therefore most welcome to assess the state of the art in this crucial chapter of the law of international organizations. From this perspective, these essays can serve as illustrative supplements to Chapters 5 and 10 of Schermers' *magnum opus*, *International Institutional Law* (now published in its third revised edition with 1305 pages, and co-authored with Blokker).[14] Finally, there should be a

13. *E.g.*, the international administrative tribunals.
14. H.G. Schermers & N.M. Blokker, International Institutional Law - Unity Within Diversity (1995).

word of tribute to Blokker and Muller, who have done an excellent job in bringing these essays together in this academic, highly interesting book.

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